

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KATHY A. HERCZEG	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 12-6635
	:	
CAROLYN W. COLVIN,	:	
Acting Commissioner of Social Security,*	:	
Defendant.	:	
	:	

ORDER

Plaintiff Kathy Herczeg filed this action under 42 U.S.C. § 405(g) requesting judicial review of the final decision of the Commissioner of the Social Security Administration (“Commissioner”), denying her claim for Disability Insurance Benefits. This Court referred the case to United States Magistrate Judge Jacob P. Hart for a Report and Recommendation (“R&R”). Magistrate Judge Hart recommended that the Commissioner’s decision be affirmed. No objections were filed.

The Commissioner affirmed the decision of the Administrative Law Judge (“ALJ”), who found that although Ms. Herczeg suffered from severe impairments of autoimmune disorder, osteoarthritis, bipolar disorder, anxiety disorder, and personality disorder, these impairments did not render her disabled. In her request for review, Ms. Herczeg argued that (1) the ALJ’s finding that Ms. Herczeg did not meet listing 12.04 of the applicable regulations was not supported by substantial evidence, and (2) Ms. Herczeg’s residual functional capacity as found by the ALJ did not take into account the limitations imposed by the treating psychiatrist. The Magistrate Judge determined that the ALJ’s decision was supported by substantial evidence. Because no objections to the R&R were filed, the Court need not perform a *de novo* review and has the discretion to “accept, reject, or modify, in whole or in part, the findings or recommendations

* Substituted pursuant to Fed. R. Civ. P. 25(d).

made by the magistrate.”¹ The Court has carefully considered the administrative record and the R&R, and agrees with the Magistrate Judge’s recommendation. The ALJ considered the evidence of Plaintiff’s impairments, including the testimony of the treating psychiatrist, Dr. Zemanek, and explained the reasons for the decision. The standard is not whether the Court would have reached the same decision as the ALJ but whether the ALJ’s decision is supported by substantial evidence. The Court agrees with the Magistrate Judge that it is.

AND NOW, this 30th day of May 2013, after careful review and independent consideration of the administrative record, and of the Report and Recommendation of United States Magistrate Judge Jacob P. Hart, to which no objections have been filed, it is hereby

ORDERED that:

1. The Clerk of Court is directed to remove this action from the suspense docket and return it to the active docket;
2. The Report and Recommendation is **APPROVED and ADOPTED**; and
3. Plaintiff’s Petition for Review is **DENIED**.

It is so **ORDERED**.

BY THE COURT:

/s/ **Cynthia M. Rufe**

CYNTHIA M. Rufe, J.

¹ Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987).